

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CRIMINAL APPLICATION No 197 of 1984

For Approval and Signature:

Hon'ble MR.JUSTICE S.D.DAVE

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DHANGAURI SABUR PUNA

Versus

SABURBHAI PUNABHAI BHABHOR

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1. Whether Reporters of Local Papers may be allowed to see the judgment ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of judgment?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 or any order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

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Appearance:

MR DF AMIN for Petitioner

MR KG PANDIT for Respondent No. 1

MR KC SHAH, ADDL. PUBLIC PROSECUTOR for Respondent No. 2

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CORAM : MR.JUSTICE S.D.DAVE

Date of decision: 03/04/96

ORAL JUDGEMENT

1 The present petition requires a partial

recognition. The present petitioner happens to be the mother of a child, namely, a daughter known as Alkaben Baria. There were disputes between the petitioner-wife and respondent no.1-the husband. The wife had started to live separate from the husband but in the company of the minor daughter. She had prayed for the maintenance of the minor daughter alone because, she was working and earning for herself and could not be said to be unable to maintain herself. The learned JMFC, Godhra, vide the orders dated May 27, 1983, has awarded the maintenance for the minor daughter at the rate of Rs.100 per month from the date of the application. The above said orders were carried to the Sessions Court, Panchmahals at Godhra, by filing Criminal Revision Application No.156 of 1983. This revision petition came to be dismissed by the learned Additional Sessions Judge vide his order dated 26th December 1983. The said orders are in challenge before me in the present special criminal application.

2 Upon hearing learned counsel Mr D.F. Amin for the petitioner and learned counsel Mr K.G. Pandit for respondent no.1 and Mr K.C.Shah, learned Government Counsel for respondent no.2-State, it appears that the present petition requires to be partly allowed. The affidavit-in-reply filed by respondent no.2 would go to show that the minor daughter, for whose benefit the maintenance was claimed and was granted, has ultimately got married. This appears to be reasonable regard being had to the fact that the parties belong to the adivasi community of the District Panchmahals. Anyhow, the question would be regarding the period during which she was under the care and custody of the mother-petitioner. It is being pointed out by learned counsel, Mr Pandit, for respondent no.1 that the said respondent used to send the amount by money orders but some of them have been refused. Not only this but some amount deposited in the Trial Court has not been withdrawn. Regard being had to all these facts it would be appropriate if the respondent no.1 is firstly directed to approach the Trial Court and to ascertain the dues and then to deposit the due amount upto January 1995 together with a further amount of Rs.5,000/- which would take care of the situation. This should be done within a period of six weeks hereof. The present petition stands disposed of in the above said manner. Rule is made absolute accordingly.

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